



Virginia Capital Access Program

Program Manual

Virginia Small Business Financing Authority

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I. Program Overview

Since 1998, the Virginia Small Business Financing Authority (VSBFA) has operated a statewide financing assistance program, known as the Virginia Capital Access Program (VCAP or the “Program”). The Program was modeled after similar successful programs in use in other states for many years.

The Program is designed to encourage banks operating in Virginia to make loans that they otherwise would not make due to their riskier profile. The Program offers lenders a flexible, non-bureaucratic tool to expand their market base and enhance their ability to meet the financing needs of Virginia's businesses. For the banks who participate, the major benefits of the Program are its simplicity and flexibility. Decisions regarding the enrollment of loans in VCAP are made by lenders without approval or involvement from VSBFA. The loan enrollment is completed after the loan is made and involves a one-page form. Lenders may provide term loans, lines of credit or both, and may enroll all or part of a loan.

From the state's perspective, VCAP is a judicious use of scarce resources. Since the Program is designed to lower risk on a portfolio of loans, a small amount of state funding can generate a significant incremental amount of bank financing.

II. Program Mechanics

Unlike some government programs which provide a guaranty of a specific loan, VCAP is different in that the program utilizes an “insurance” concept on a portfolio of loans. Under the Program, each participating bank builds a loan loss reserve (the “Reserve Fund”) through fees collected from the bank/borrower and from VSBFA. A separate Reserve Fund is established for each participating bank, so the performance of any one participating bank will not affect the others. Moreover, the Reserve Fund is not specific to individual loans, but is used to offset all or part of a loss on any enrolled loan in a participating bank's VCAP loan portfolio.

A. Enrollment Fees

- Enrollment Fees are set by the participating bank at the time of loan enrollment, based on the bank's perceived level of risk for the loan. Enrollment fees can range between 3% and 7% and can be paid by the Borrower, or the Bank, or by both; however the combined Enrollment Fees paid can not exceed 7%.
- At the time the bank notifies VSBFA of the loan enrollment, a matching premium is deposited by VSBFA into the bank's Reserve Fund.
- The more frequently the bank utilizes the Program, the larger the Reserve Fund becomes and the greater the protection the Fund affords by spreading the risk over a larger portfolio of loans.

B. Eligible Lenders

Any federal or state chartered bank is eligible for participation in the Program. All participating banks must execute a VCAP Bank Participation Agreement and must provide an interest-bearing checking account to serve as the bank's Reserve Account.

C. Eligible Borrowers

To be considered eligible a business must meet the following criteria:

1. Borrower is a 501c3, or
2. Borrower is a for-profit corporation, partnership, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, cooperative, or other entity which is authorized to conduct business in the Commonwealth of Virginia that has 250 employees or less, or has a net worth of less than \$2 million, or has had revenues below \$10 million over the past 3 years, and
3. Borrower is not an executive officer, a director, or a principal shareholder of the participating bank nor has a related interest or is an immediate family member of an executive officer, director, or principal shareholder of the participating bank.

D. Eligible Loan Uses

To be considered **eligible** for enrollment, the **loan use** must:

- be used for an endeavor related to industrial, commercial or other business enterprise within the Commonwealth of Virginia;
- not be related to residential housing or passive real estate ownership;
- not refinance outstanding loans with the bank that were not originally enrolled under the Program, unless such refinancing increases the outstanding principal balance of the loan by 25% or more.

Eligible loan uses include:

- financing the acquisition of land;
- the construction or renovation of buildings;
- the purchase of equipment, other capital projects;
- working capital.

E. Eligible Loan Terms and Structure

The Virginia Capital Access Program gives lenders significant flexibility in structuring the loans they enroll under the Program. The lender decides which loans to cover under the Program, and the lender determines the interest rate, premium level, term, collateral requirements, and any other conditions of the loan.

Although the Bank may have a longer note maturity and amortization period, the maximum term the loan is covered under VCAP is ten (10) years from the date of enrollment. In any event, maturities should match the Borrower's ability to repay, and the life of the asset purchased.

Banks may extend lines of credit under the Program so long as the maximum amount of the line is enrolled under the Program. The maturity date of the line is also the maturity date of enrollment in the Program unless the Lender notifies the VSBFA in writing of the line renewal or extension. Such notification is evidenced by a new enrollment form and Borrower's Certification Form. The VSBFA will not provide a matching fee for line renewals or extensions.

F. Loan Refinances

1. ***Loans which refinance outstanding loans with the bank that were not originally enrolled under the Program are ineligible for enrollment, unless such refinancing increases the outstanding principal balance of the loan by 25% or more.***

2. In the event that ***an enrolled loan is refinanced or restructured and no additional principal is advanced***, the enrolled loan may remain enrolled in the Program with no additional premiums payable by either the bank/borrower or VSBFA. In this case, it is not necessary to file an additional enrollment form with VSBFA.

3. In the event that ***an enrolled loan is refinanced and additional principal is advanced***, the bank may file an enrollment form and pay an enrollment fee on that portion of the loan which is in excess of the original loan enrollment amount if the bank wishes to have that additional principal amount covered under the Program.

G. Maximum Enrolled Loan Amount

The maximum aggregate outstanding loan amount(s) which may be enrolled for any single borrower, or any common enterprise in which the borrower has an ownership interest, is \$250,000.

H. Maintenance of the Reserve Fund

A separate Reserve Fund is maintained for each bank participating in the Program and the funds in that account are completely dedicated to covering losses on loans enrolled by that bank. All funds credited to the Reserve Fund are solely controlled by VSBFA and are owned by VSBFA.

1. Location of the Reserve Fund:

- For efficiency and administrative convenience, the Reserve Fund for participating banks will be established in the name of VSBFA and maintained at that bank.
- Reserve Fund accounts are to be interest bearing, and participating banks may not charge VSBFA for any fees related to VCAP loan transactions or for the maintenance of the Reserve Fund account.
- VSBFA will monitor Reserve Fund account activities and will deposit VSBFA's matching premium contributions to the Reserve Fund.
- ***The Reserve Fund accounts are public deposits pursuant to the Security for Public Deposits Act and must be indicated as such on the bank records. The bank is subject to the collateralization and reporting requirements of the Act.***

2. Uses of Accrued Interest:

- Interest income earned on the Reserve Fund will be credited to the account.
 - VSBFA may withdraw at any time up to 50% of all interest or income credited to the Reserve Fund. VSBFA will utilize these funds to offset the administrative costs associated with operating the Program or to make future matching fees.
3. Excess Reserve Fund Withdrawal Procedures:
- If for 12 consecutive months the amount in a bank's Reserve Fund continuously exceeds the amount of that institution's existing VCAP loan portfolio, VSBFA may withdraw any excess funds within this reserve so that the amount remaining in the reserve will be equal to the outstanding aggregate balance of existing VCAP loans.
 - If a participating bank effectively discontinues using the Program and no additional loans are being enrolled, VSBFA will make withdrawals against the Reserve Fund as described above until all loans enrolled by the bank have been repaid. At that time, all remaining funds in the Reserve Fund account will be withdrawn by VSBFA.
 - If a bank formally terminates its participation in the Program, the 12-month period noted above will not apply and VSBFA may withdraw excess funds from the reserve immediately.
4. Reserve Fund Bank Statement:

The bank is to submit to the VSBFA a monthly bank statement which reflects all activity for the period under the Reserve Fund within 10 days of the preceding month-end.

I. Initial Bank Participation Procedures

1. Execution of the VCAP Bank Participation Agreement and Designation of Bank Contacts.

- If not already completed, add the bank's name and the date to the front of the Agreement and have a senior officer of the bank execute the agreement on the last page
- Please advise VSBFA of the bank's VCAP primary and secondary contact information. The contact information should include names, titles, phone numbers, e-mail addresses and fax numbers.
- Please also provide a bank contact to whom we can speak when arranging publicity on the bank's participation in the program.

2. Establishment of the Reserve Fund Account.

- The account that will be used as your bank's Reserve Fund Account must be an interest-bearing, demand deposit account, which **will not incur service charges** of any kind, including monthly maintenance fees. The account should bear the name of "VSBFA Reserve Fund Account – <Your Bank's Name.> and the mailing address is Attn: VCAP, P O Box 446, Richmond, VA 23218-0446.

- **The Reserve Fund is public deposits pursuant to the Security for Public Deposits Act and must be indicated as such on the bank records. The bank is subject to the collateralization and reporting requirements of the Act.**

The Virginia Small Business Financing Authority is a political subdivision of the Commonwealth of Virginia. Our tax identification number is: 54-1300845.

- There will be three authorized signatories on the account; Stacy VanLeliveld, Director of Administration, Scott E. Parsons, Executive and Patricia S. Thorne - Senior Project Finance Manager.
- Please forward to VSBFA your bank's signature card and account resolution necessary to establish the deposit account.
- Once the Reserve Fund account is established, please supply VSBFA with a starter kit of approximately 15-20 checks.

The receipt of the starter kit is necessary because we deposit the state matching funds through EFT. It will take approximately one week to finalize arrangements for the electronic funds transfer. However, this will not prohibit your bank from proceeding with the closing of any loans you intend to enroll in the Program.

III. Program Procedures

A. Processing and Enrolling an Eligible Loan in VCAP

Prior to enrolling a loan in VCAP, the participating bank must:

1. Determine that the bank desires to use VCAP as the result of the proposed loan's riskier profile.
2. Approve the loan. (VSBFA does not participate in the approval decision.)
3. Establish the premium level, and calculate the enrollment fee based on the amount of the loan the bank wishes to enroll. (See also "Enrolling a Portion of the Loan" below.)
4. Collect the enrollment premium from the borrower.
5. Deposit the enrollment fee into the bank's Reserve Account.
6. Obtain the borrower's signature on the "Borrower's Certification Form" (see Exhibit A).

To process and enroll an eligible loan under VCAP, the participating bank submits to the VSBFA

1. a completed VCAP Enrollment form (Exhibit B) and
2. the Borrowers Certification Form (Exhibit A) and
3. a copy of the bank's deposit receipt for the enrollment fee.

Faxed copies of the required documentation are to be sent to (804) 225-3384, ATTN: VCAP ENROLLMENT. **All documentation must be received by the VSBFA within ten (10) business days after the bank originates the loan:**

When VSBFA receives a VCAP Enrollment Form:

- VSBFA reviews the form for completeness;
- Transfers electronically the matching premium amount into the Reserve Fund account at the participating bank.

- If the enrolled loan is among the first \$1,000,000 in loans that the participating Bank has enrolled under the Program, VSBFA will provide a “double-match” that is twice the amount of the enrollment fee contributed by the borrower/bank, up to a maximum match of 14%. Additionally, once a bank has reach \$1 million in enrolled loans, the VSBFA can continue to provide a one-time double matching fee for the benefit of certain targeted borrowers. These targeted borrowers are a) technology companies, b) a company located in a rural area, or c) a company that is majority owned by a socially or economically disadvantaged individual(s). All such target groups are defined in the Bank Participation Agreement.

B. Enrolling a Portion of a Loan:

In situations where lenders feel marginally comfortable with a prospective loan, the bank may enroll under the Program only that portion of the loan that it deems more risky. In this case, premiums are paid only on the portion of the loan the bank chooses to enroll.

In the event of default, the lender could recoup up to the enrolled amount of principal loss on the loan, plus accrued interest on that portion and documented out-of-pocket collection expenses.

By selecting this alternative, the bank and the borrower reduce the borrower's costs by reducing the premium payment that must be deposited into the Reserve Fund account and excess premiums are not paid for coverage that is not needed.

C. Filing of Program Reports

Bank is to submit to the Virginia Small Business Financing Authority (VSBFA) a monthly bank statement which reflects all activity under the Reserve Fund within 10 days of the preceding month-end.

For each calendar quarter, the Bank is to submit to the VSBFA within 10 days of the quarter-end a report listing borrowers and outstanding balances of all Enrolled Loans as of the end of that preceding calendar quarter. In computing the aggregate outstanding balance of all Enrolled Loans, the balance of any loan shall in no event be considered to be greater than the covered amount of the loan as enrolled, and in the case of lines of credit, the line commitment shall be considered to be the enrolled line amount.

- 1 Name of Borrower
- 2 Amount of Loan
- 3 Amount of Enrolled Loan
- 4 Type of Loan (Line or Term)
- 5 Outstanding balance
 - **If line of credit – enrolled line amount and maturity date**
 - **If term debt – show the lesser of the outstanding balance or the enrolled loan amount and the date of enrollment**

Bank statements and enrolled loan reports are to be mailed to:
Virginia Small Business Financing Authority
Attn: Loan Operations
P O Box 446
Richmond, VA 23218-0446
or faxed to: 804-225-3384

D. Filing a Claim under the Program

When a loan enrolled under the Program defaults, the participating bank shall determine when and how much of the enrolled loan to charge off. The lender may then file a loss claim form (see Exhibit C) within 30 days of the charge-off of any part, or all, of the enrolled loan. The bank is entitled to recover principal, accrued interest and any reasonable collection expenses related to the charge-off loan. The bank should retain documentation in its files evidencing all expenses for which a claim is filed.

Should the bank file two or more claims contemporaneously, and if there are insufficient funds in the Reserve Fund account to cover the entire amount of the claims, the bank may designate the order of the priority in which VSBFA should pay the claims from the Reserve Fund account.

E. Payment of a Claim

Provided the bank has not made representations it knew to be false at the time of loan enrollment, VSBFA will promptly pay a claim, as submitted, from the Reserve Fund account. If there are insufficient funds in the Reserve Fund account to cover the entire amount of the bank's claim, VSBFA shall pay the bank an amount equal to the current balance of the Reserve Fund account, less any fund interest accrued to VSBFA. Such payment shall be deemed to fully satisfy the claim and the bank will have no future right to receive any amount from the Reserve Fund with respect to that claim.

F. Collection Rights and Recoveries Subsequent to a Claim

Participating banks may proceed with the claim process before exercising their collateral rights and taking legal action against the borrower on a charged-off loan. In any event, should the lender recover any amounts from the borrower subsequent to the payment of a claim, the bank must promptly return these monies, less any amount needed to cover out of pocket expenses incurred, to VSBFA for deposit in the Reserve Fund account.

G. Liability

All loans enrolled under the Program are private transactions between the borrower and the bank. VSBFA's responsibility lies in administering the Program and providing matching premium payments on VCAP loans. VSBFA is not a party to the loans and disclaims any liability in connection with the loans enrolled under VCAP.

By executing the Bank Participation Agreement, each participating bank represents that it understands the regulations and guidelines of the Program and warrants that it will comply with them as Program loans are enrolled. In addition, the bank acknowledges that VSBFA bears no liability to the bank beyond the funds which are deposited into the Reserve Fund account.

(EXHIBIT A) VCAP Borrower Certification Form

Notice to Borrower

This notice is provided to Borrowers who may receive a loan which has been enrolled in the Virginia Capital Access Program of the Virginia Small Business Financing Authority.

- Purpose:** The purpose of the Virginia Capital Access Program (VCAP) is to assist banks in making loans to borrowers that might not otherwise qualify for a conventional bank loan.
- Reserve Fund:** The program uses a Reserve Fund to assist banks in recovering losses on a portfolio of loans that a bank makes under the program. A non-refundable fee (enrollment fee) paid into the Reserve Fund by the borrower/bank is matched by the Virginia Small Business Financing Authority. The borrower has no legal, beneficial or equitable interest in any reserve contributions made to the Reserve Fund. While the program is intended to assist banks in providing businesses with access to bank financing, loans enrolled through the VCAP program are usually more expensive for borrowers than would be the case with a conventional bank loan because of the additional risks.
- Parties:** A loan enrolled in the VCAP program is a private transaction between the bank and the borrower. The Virginia Small Business Financing Authority is not a party to the loan(s) and plays no role in the bank's decisions (i.e., approving or declining the loan, setting the terms and conditions, or enforcing the bank's rights under the loan contract). The bank's rights and remedies are described in the loan documents and in law applicable to any bank financing.

Representations by Borrower

The borrower (the "Borrower") hereby acknowledges the foregoing and, with respect to the credit facility described below, the Borrower makes the following representations and warranties to (the bank) :

Borrower: The Borrower is a 501c3 or a for-profit corporation, partnership, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, cooperative, or other entity which is authorized to conduct business in the Commonwealth of Virginia. The Borrower(s) is not an executive officer, a director, or a principal shareholder of (the bank) nor has a related interest in or is an immediate family member of an executive officer, director, or principal shareholder of (the bank) .

Eligibility (YES) (NO) The Borrower is a Virginia business that has 250 employees or less, or has a net worth of less than \$2 million, or has had revenues below \$10 million over the past 3 years, or is a 501c3.

Determination and Double Match (YES) (NO) The Borrower is a Virginia business which derives over fifty percent of its revenues from the research, development, fabrication, manufacturing, or marketing of products and applications which use or embody technology.

Qualifying Criteria

Check all that Apply (YES) (NO) The Borrower is located in a rural community. "Rural community" shall be defined as areas other than cities of more than 50,000 people and their immediately adjacent urbanized or urbanizing areas.

 (YES) (NO) The Borrower is a Virginia business whose majority ownership is held by Socially or Economically Disadvantaged Individuals. ("Socially disadvantaged individuals") shall be defined as individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group. Social disadvantage must stem from circumstances beyond their control. In the absence of evidence to the contrary, individuals who are members of the following designated groups are presumed to be socially disadvantaged: African-Americans, Hispanic-Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian Pacific Americans (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Commonwealth of the Northern Mariana Islands, Laos, Cambodia (Kampuchea), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, Federated States of Micronesia, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal), and members of other groups designated by the SBA. ("Economically disadvantaged individual") shall be defined as an individual whose ability to compete in the free market has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business and competitive market area. In order to meet the test for economic disadvantaged, an individual must have a net worth of less than \$250,000, excluding the equity of the business and personal residence.)

Loan Enrollment: The loan to the Borrower will be filed for enrollment by the bank in the Virginia Capital Access Program. As a condition of the Program enrollment, the Borrower is required to pay a non-refundable fee, which will be collected by the bank for transmittal into the Reserve Fund.

Loan Purpose: The loan proceeds will be used for business purposes within the Commonwealth of Virginia. They will not be used to finance housing or passive real estate ownership, which means the ownership of real estate for the purpose of deriving income from speculation, trade, or rental. It does not mean: 1) ownership of real estate being used or intended to be used for the Borrower's business operation, or 2) ownership of real estate for the purpose of construction or renovation during the construction or renovation phase.

Waiver: The Borrower hereby waives any right, claim or interest to any and all such funds paid or credited to the Reserve Fund from time to time.

Borrower's Name

Date

By: _____
Title

Note Date:	Account or Taxpayer ID No.:
Note Amount:	Enrolled Loan Amount:
Other Outstanding Note(s) Amts. Covered, if applicable:	No. Jobs Created with Loan:
	No. Jobs Saved with Loan:

EXHIBIT B

VCAP Loan Enrollment Form

Lender Information			
Participating Bank		Phone No. Fax. No.	
Loan Officer		Officer's Address	
Borrower Information			
Applicant Name <i>(Please include d/b/a or t/a)</i>			
Complete Address <i>(Please include the city or county in which the Borrower is located)</i>			
Type of Business <i>(Please be specific: eg .Veterinary Clinic, Dental Practice, etc.)</i>		SIC/NAICS#	Tax Identification Number
Phone#	Borrower's Estimate of New Jobs Created as a Result of this Loan: _____	Borrower's Estimate of No. of Jobs Saved as the Result of this Loan: _____	
Loan Information			
Purpose			
Note Date	Maturity Date	Date Enrolled	
Note Amount	Enrolled Amount	Loan Type (Line or Term Loan)	
NOTE: Lines of credit will be considered un-enrolled and out of the program one month after the maturity date unless the VSBFA is informed in writing by the bank that the maturity date has been extended as specified in Section 4.9 of the Bank Participation Agreement.			
<i>Complete the following fields if refinancing an enrolled VCAP loan:</i>		Enrolled Balance Prior to Refinance	New Total Enrolled Amount
Amt. of Other Outstanding Enrolled Loans to Borrower:			
Reserve Information			
Percentage:	Borrower:	Bank:	VSBFA:
Amount:	Borrower:	Bank:	VSBFA:
VSBFA Acceptance			
<p>Virginia Small Business Financing Authority</p> <p>By: _____</p> <p>Date: _____</p>			

EXHIBIT C

VCAP Claim Form

-
1. Name of Bank: _____
 2. Name of Borrower: _____
 3. Borrower Customer No./ Note No.: _____
 4. Original Covered Amount of Loan at Enrollment: _____
 5. Outstanding Principal Balance of Loan: _____
 6. Amount of Claim
 - a. Principal _____
(Amount of principal cannot exceed the original covered loan amount)
 - b. Accrued Interest _____
 - c. Out of pocket expenses _____
(Please provide documentation)Total Amount of Claim _____

Authorized Signature _____

Name and Title _____

Date _____

For VSBFA internal use only

Approved by: _____ and
